

Senate Bill 253

By: Senators Smith of the 52nd, Weber of the 40th, Carter of the 13th, Meyer von Bremen of the 12th and Hamrick of the 30th

AS PASSED

AN ACT

To amend Part 4 of Article 2 of Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating to manufactured or mobile homes, so as to change certain provisions relating to requirements for a Certificate of Permanent Location; to change certain provisions relating to recording documents in connection with a Certificate of Permanent Location; to provide an alternative method of obtaining a Certificate of Permanent Location that does not involve a certificate of title; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 4 of Article 2 of Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating to manufactured or mobile homes, is amended by striking Part 4 and inserting in lieu thereof the following:

"Part 4

Subpart 1

8-2-180.

As used in this part, the term:

- (1) 'Clerk of superior court' means the clerk of the superior court of the county in which the property to which the home is or is to be affixed is located.
- (2) 'Commissioner' means the state revenue commissioner and includes any county tax commissioner when so authorized by the state revenue commissioner to act on his or her behalf in carrying out the responsibilities of this part.
- (3) 'Home' means a manufactured home.
- (4) 'Manufactured home' has the meaning specified in paragraph (4) of Code Section 8-2-160.

8-2-181.

(a) Except as provided in Subpart 1A of this part, a manufactured home shall constitute personal property and shall be subject to the 'Motor Vehicle Certificate of Title Act,' Chapter 3 of Title 40, until such time as the home is converted to real property as provided for in this part or as provided in Subpart 1A of this part.

(b) A manufactured home shall become real property if:

(1) The home is or is to be permanently affixed on real property and one or more persons with an ownership interest in the home also has an ownership interest in such real property; and

(2) The owner of the home and the holders of all security interests therein execute and file a Certificate of Permanent Location:

(A) In the real estate records of the county where the real property is located; and

(B) With the commissioner.

(c) The Certificate of Permanent Location shall be in a form prescribed by the commissioner and shall include:

(1) The name and address of the owner of the home;

(2) The names and addresses of the holders of any security interest in and of any lien upon the home;

(3) The title number assigned to the home;

(4) A description of the real estate on which the home is or is to be located, including the name of the owner and a reference by deed book and page number to the chain of title of such real property; and

(5) Any other data the commissioner prescribes.

8-2-182.

(a) When a Certificate of Permanent Location is properly filed with the clerk of superior court, the clerk shall record such certificate in the same manner as other instruments affecting the real property described in the Certificate of Permanent Location and shall charge and collect the fees usually charged for recording deeds and other instruments relating to real estate. Such certificate shall be indexed under the name of the current owner of the real property in both the grantor and grantee indexes. The clerk shall provide the owner with a certified copy of the Certificate of Permanent Location, reflecting its filing, and shall charge and collect the fees usually charged for the provision of certified copies of documents relating to real estate.

(b) Upon receipt of a certified copy of a properly executed Certificate of Permanent Location, along with the certificate of title, the commissioner shall file and retain a copy of such Certificate of Permanent Location together with all other prior title records related to the home. When a properly executed Certificate of Permanent Location has once been filed, the commissioner shall accept no further title filings with respect to that home, except as may be necessary to correct any errors in the department's records and except as provided in Subparts 2 and 3 of this part.

(c) When a Certificate of Permanent Location is so filed, the commissioner shall issue to the clerk of the superior court with whom the original Certificate of Permanent Location was filed confirmation by the commissioner that the Certificate of Permanent Location has been so filed and the certificate of title has been surrendered.

(d) Upon receipt of confirmation of the filing of the Certificate of Permanent Location from the commissioner, the clerk of superior court shall provide a copy of the Certificate of Permanent Location to the appropriate board of tax assessors or such other local official as is responsible for the valuation of real property.

8-2-183.

(a) When a Certificate of Permanent Location has been properly filed with the clerk of superior court, a certified copy of the Certificate of Permanent Location is properly filed with the commissioner, and the certificate of title is surrendered, the home shall become for all legal purposes a part of the real property on which it is located. Without limiting the generality of the foregoing, the home shall be subject to transfer by the owner of the real property, subject to any security interest in the real property and subject to foreclosure of any such interest, in the same manner as and together with the underlying real property.

(b) When a home has become a part of the real property as provided in this part, it shall be unlawful for any person to remove such home from the real property except with the written consent of the owner of the real property and the holders of all security interests in the real property and in strict compliance with the requirements of Subpart 2 of this part. Any person who violates this subsection shall be guilty of a misdemeanor of a high and aggravated nature.

Subpart 1A

8-2-183.1.

(a) A manufactured home which has not been issued a certificate of title from the commissioner and which is sold on or after July 1, 2006, shall become real property if:

(1) The home is or is to be permanently affixed on real property and one or more persons with an ownership interest in the home also has an ownership interest in such real property; and

(2) The owner of the home and the holders of all security interests therein execute and file a Certificate of Permanent Location in the real estate records of the county where the real property is located.

(b) The Certificate of Permanent Location shall be in a form prescribed by the commissioner and shall include:

(1) The name and address of the owner of the home;

(2) The names and addresses of the holders of any security interest in and of any lien upon the home;

(3) As an attachment, the manufacturer's original certificate of origin; and

(4) A description of the real estate on which the home is or is to be located, including the name of the owner and a reference by deed book and page number to the chain of title of such real property.

(c) A Certificate of Permanent Location shall be filed with the clerk of superior court, and the clerk shall record such certificate in the same manner as other instruments affecting the real property described in the Certificate of Permanent Location and shall charge and collect the fees usually charged for recording deeds and other instruments relating to real estate. Such certificate shall be indexed under the name of the current owner of the real property in both the grantor and grantee indexes.

(d) When a Certificate of Permanent Location is properly filed with the clerk of superior court, the home shall become for all legal purposes a part of the real property on which it is located. Without limiting the generality of the foregoing, the home shall be subject to transfer by the owner of the real property, subject to any security interest in the real property and subject to foreclosure of any such interest, in the same manner as and together with the underlying real property.

(e) When a properly executed Certificate of Permanent Location has once been filed, the commissioner shall accept no further title filings with respect to that home, except as may be necessary to correct any errors in the department's records and except as provided in Subparts 2 and 3 of this part.

(f) Upon recording the Certificate of Permanent Location, the clerk of superior court shall provide a copy of the Certificate of Permanent Location to the appropriate board of tax assessors or such other local official as is responsible for the valuation of real property.

(g) When a home has become a part of the real property as provided in this part, it shall be unlawful for any person to remove such home from the real property except with the written consent of the owner of the real property and the holders of all security interests in the real property and in strict compliance with the requirements of Subpart 2 of this part. Any person who violates this subsection shall be guilty of a misdemeanor of a high and aggravated nature.

Subpart 2

8-2-184.

(a) A home which has previously become real property shall become personal property if:

(1) The manufactured home is or is to be removed from the real property with the written consent of the owner of the real property and the holders of all security interests therein; and

(2) The owner of the real property and the holders of all security interests therein execute and file a Certificate of Removal from Permanent Location:

(A) With the commissioner; and

(B) In the real estate records of the county where the real property is located.

(b) The Certificate of Removal from Permanent Location shall be in a form prescribed by the commissioner and shall include:

(1) The name and address of the owner;

(2) The names and addresses of the holders of any security interest and of any lien;

(3) The title number formerly assigned to the home, if applicable;

(4) A description of the real estate on which the home was previously located, including the name of the owner and a reference by deed book and page number to the recording of the former Certificate of Permanent Location; and

(5) Any other data the commissioner prescribes.

8-2-185.

(a) Upon receipt of a properly executed Certificate of Removal from Permanent Location, the commissioner shall file and retain a copy of such certificate together with all other prior

title records related to the home and may thereafter issue a new certificate of title for the home. The commissioner shall charge and collect the fee otherwise prescribed by law for the issuance of a certificate of title.

(b) When a Certificate of Removal from Permanent Location is so filed, the commissioner shall return to the filing party the original of the Certificate of Removal from Permanent Location containing thereon confirmation by the commissioner that the Certificate of Removal from Permanent Location has been so filed.

8-2-186.

(a) The clerk of superior court shall not accept a Certificate of Removal from Permanent Location for filing unless the Certificate of Removal from Permanent Location contains thereon the confirmation by the commissioner that the Certificate of Removal from Permanent Location has been filed with the commissioner.

(b) When a Certificate of Removal from Permanent Location is properly filed with the clerk of superior court, the clerk shall record such certificate in the same manner as other instruments affecting the real property described in the Certificate of Removal from Permanent Location and shall charge and collect the fees usually charged for recording deeds and other instruments relating to real estate. Such certificate shall be indexed under the name of the current owner of the real property in both the grantor and grantee indexes.

Subpart 3

8-2-187.

(a) When a home which has previously become real property has been or is to be destroyed, the owner of the real property and the holders of all security interests therein shall execute and file a Certificate of Destruction:

- (1) With the commissioner; and
- (2) In the real estate records of the county where the real property is located.

(b) The Certificate of Destruction shall be in a form prescribed by the commissioner and shall include:

- (1) The name and address of the owner;
- (2) The names and addresses of the holders of any security interest and of any lien;
- (3) The title number formerly assigned to the home, if applicable;

- (4) A description of the real estate on which the home was previously located, including the name of the owner and a reference by deed book and page number to the recording of the former Certificate of Permanent Location;
- (5) Verification of the destruction by a law enforcement officer; and
- (6) Any other data the commissioner prescribes.

8-2-188.

- (a) Upon receipt of a properly executed Certificate of Destruction, the commissioner shall file and retain a copy of such certificate together with all other prior title records related to the home.
- (b) When a Certificate of Destruction is so filed, the commissioner shall issue to the filing party the original of the Certificate of Destruction containing thereon confirmation by the commissioner that the Certificate of Destruction has been so filed.

8-2-189.

- (a) The clerk of superior court shall not accept a Certificate of Destruction for filing unless the Certificate of Destruction contains thereon the confirmation by the commissioner that the Certificate of Destruction has been filed with the commissioner.
- (b) When a Certificate of Destruction is properly filed with the clerk of superior court, the clerk shall record such certificate in the same manner as other instruments affecting the real property described in the Certificate of Destruction and shall charge and collect the fees usually charged for recording deeds and other instruments relating to real estate. Such certificate shall be indexed under the name of the current owner of the real property in both the grantor and grantee indexes.

Subpart 4

8-2-190.

A manufactured home which constitutes real property shall not be subject to Article 10 of Chapter 5 of Title 48 but shall instead be taxed as real property and a part of the underlying real estate.

8-2-191.

The commissioner shall charge a fee of \$18.00 for any filing under this part."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.